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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,743

09/19/2003

Donald G. Huber

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6980

20482 7590 11/16/2006

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,743	Applicant(s) HUBER ET AL.	
	Examiner Chapman E. Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
 4a) Of the above claim(s) 7-18,22,23 and 29-31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claims 29-31 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/6/06.

DETAILED ACTION

An election of Species has been added to the above restriction requirement.

This application contains claims directed to the following patentably distinct species:

Specie 1, figures 1-2

Specie 2, figures 5-6

Specie 3, figure 7

Specie 4, figure 8

Specie 5, figures 9-10

Specie 6, figure 11

Specie 7, figure 12

The species are independent or distinct because of their recognized divergent subject matter. Specie 1 has the tabs with opening s for the rebars. Specie 2 has the bar supports and Specie 3 has the detachable bar supports. Specie 4 discloses a bar holder to be placed inside the form. Specie 5 discloses a flange located inside the bottom wall and the reinforcing bar portion attached to the wall. Specie 6 discloses stakes tabs and notches on the form. Specie 7 discloses a cylindrical form.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with the attorney on 11/9/06 a provisional election was made with traverse to prosecute the invention of Specie 1, claims 1-6, 19-21, 24-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-18, 22-23, 29-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer (3024512) in view of Siemer (2276422).

Dyer discloses a form which may be used to construct pier blocks; the form comprises:

- Four planar sidewalls 11 made of plastic
- Each side wall includes a long and short axis, first and second ends, exterior and interior surfaces and a top and bottom edge
- The first end of each side wall being immediately adjacent to the second end of another side wall such that a corner 12 is formed at each end of the side wall thereby defining a form interior for the placement of concrete in the exterior
- Means 15 for securing section or a plurality of reinforcing bars 17 within the interior of the form; the means for securing includes holes spaced along the long axis of the side walls; see figure 3
- Means for securing 13/14 the form in a desired location at a construction site; see figure 1; the means for securing the form in a desired location at a

construction site are a plurality of tabs 13 that are scored or folded into the form side walls; the tab is not scored for a stake but one of ordinary skill in the art would have appreciated providing any other means to secure the tab to the site firmly while the concrete is being poured in the form.

Dyer lacks the corrugated plastic having spaced integral from corrugated plastic having ribs. Siemer discloses a corrugated plastic form having interconnecting ribs 7 between two facing sheets of plastic 5 and 6. In view of the above, it would have been obvious to one of ordinary skill in the art to modify Siemer to include the corrugated plastic in order to give the form more support and rigidity.

The walls are integrally joined in Dyer; to make them separable and then joinable by adhesive would have been obvious in order to assemble the same on site and thus facilitating storage of the side walls.

Allowable Subject Matter

Claims 24-28 are allowable over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JEANETTE CHAPMAN
PRIMARY PATENT EXAMINER
ART UNIT 3635
